

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

SUPREME HOME HEALTH SERVICES, INC. AND EMILY WINSTON, PRESIDENT VERSUS	*	CIVIL ACTION NO. 18-1370
	*	JUDGE TERRY A. DOUGHTY
ALEX M. AZAR, II, SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, ET AL.	*	MAG. JUDGE KAREN L. HAYES

J U D G M E N T

The Report and Recommendation of the Magistrate Judge having been considered, together with the written objections thereto filed with this Court, and, after a *de novo* review of the record, finding that the Magistrate Judge's Report and Recommendation is correct and that judgment as recommended therein is warranted,

IT IS ORDERED, ADJUDGED, AND DECREED that the motion to dismiss for lack of subject matter jurisdiction [Doc. No. 26] filed by Defendants Alex Azar, II and Seema Verma, is **GRANTED-IN-PART**, as to each Plaintiff, as follows:

- 1) Plaintiff Supreme Health Services, Inc.'s claims for violations of substantive due process and preservation of rights under § 704 of the APA are **DISMISSED, WITHOUT PREJUDICE**, as to all parties in the case; and
- 2) Plaintiff Emily Winston's claims are **DISMISSED, WITHOUT PREJUDICE**, in their entirety, pursuant to Fed. R. Civ. P. 12(b)(1).

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Azar and Verma's motion to dismiss for failure to state a claim upon which relief can be granted [Doc.

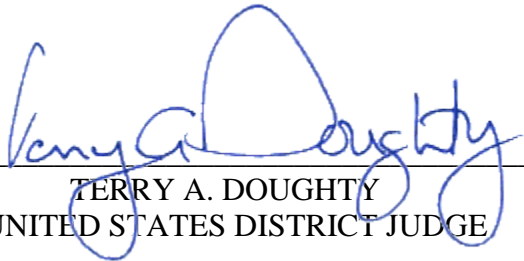
No. 26] is converted into a motion for summary judgment and **GRANTED-IN-PART, DISMISSING, WITH PREJUDICE**, Supreme's procedural due process and ultra vires claims, as to all parties in the case.

IT IS FURTHER ORDERED that Defendants Azar and Verma's motion to dismiss [Doc. No. 26] otherwise is **DENIED**.

IT IS FURTHER ORDERED that the motion to dismiss [Doc. No. 28] filed by Palmetto GBA, L.L.C., is **DENIED, as moot**.

The case is closed.

Monroe, Louisiana, this 23RD day of April, 2019.



TERRY A. DOUGHTY
UNITED STATES DISTRICT JUDGE